

LAW OFFICES

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AMY JOCELYN RAMSON

ADMITTED IN NY AND GA

MURRAY RAMSON (RET.)

July 29, 2011

United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Att'n: Pro Se Office

via Express Mail

re: Martin Johnson v. New York State DOC/DCF
10 Civ 9532 (DLC)

Dear Sir,

Enclosed please find the Amended Complaint for filing in the above action on behalf of Martin Johnson,

You may send the Rule 4 since package to the address as Mr. Martin's current address is temporary.

If you have any questions, please do not hesitate to contact me.

Thank you for your courtesies in this matter.

Very truly yours,



Gamiel A. Ramson

GAR:mc
Enclosure

2011 AUG -1 PM 3:02
RECEIVED
CLERK OF COURT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKMARTIN JOHNSON

(In the space above enter the full name(s) of the plaintiff(s).)

**AMENDED
COMPLAINT**under the Civil Rights Act,
42 U.S.C. § 1983

-against-

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICESCORRECTION OFFICER NANCY LOPEZCORRECTION OFFICER NEVA JOHNSONCORRECTION OFFICER HUGH RICENBERGCORRECTION OFFICER JOHN DOECORRECTION OFFICE JOHN DOETHE STATE OF NEW YORKJury Trial: ☒ Yes ☐ No
(check one)10 Civ. 9532 (DLC)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff's Name Martin Johnson
 ID# DIN # 10A0687
~~Current Institution~~
 Current Address 889 St. Nicholas Avenue, 605
New York, NY 10032

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name New York State Department of / Correctional Services
 Shield # _____
 Where Currently Employed _____
 Address c/o Office of Attorney General
120 Broadway
New York, NY 10271

Defendant No. 2 Name Correction Officer Nancy Lopez Shield # _____
 Where Currently Employed Downstate Correctional Facility
 Address 121 Red Schoolhouse Road, P.O. Box 445
Fishkill, NY 12524-0045

Defendant No. 3 Name Correction Officer Neva Johnson Shield # _____
 Where Currently Employed Downstate Correctional Facility
 Address 121 Red Schoolhouse Road, P.O. Box 445
Fishkill, NY 12524-0045

Who did
what?

Defendant No. 4 Name Correction Officer of Hugh Ricenberg Shield # _____
 Where Currently Employed Downstate Correctional Facility
 Address 121 Red Schoolhouse Road, P.O. Box 445
Fishkill, NY 12524-0045

Defendant No. 5 Name The State of New York Shield # _____
 Where Currently Employed c/o Office of Attorney General
 Address 120 Broadway
New York, NY 10271

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

Downstate Correctional Facility

B. Where in the institution did the events giving rise to your claim(s) occur?

The entranceway to the housing area of Complex 1

C. What date and approximate time did the events giving rise to your claim(s) occur?

March 22, 2010, 7:20 a.m.

D. Facts: C.O. Hugh Ricenberg and a few other male officers held me

down and let C.O. Nancy Lopez and C.O. Neva Johnson beat my legs with
billy club sticks while laughing. I have broken screws in my left

leg/hip area from a prior injury that the Correction Officers at

What
happened
to you?

Downstate C. F. were well aware of. They were aware that I was handicapped man because I came to Downstate C. F. on crutches and/or cane on 2-12-10. The Defendants maliciously and vindictively beat and assaulted with evil behavior someone who is handicapped. I was the hemmed up and dragged by two male officers to my cell number 1E35 where I was then taken to the infirmary where x-rays were taken and medication given for pain and stayed there 8 or 9 days

- Claims for : 1) Assault
2) Excessive force
3) Failure to Protect

The constitutional basis for the claims under 42 U.S.C. § 1983 are cruel, malicious and intentional assault of the Eighth Amendment claim

Was anyone else involved?

Who else saw what happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Tremendous pain and suffering, swollen legs, worsening of broken screw condition in left leg/hip area to be determined, emotional distress

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Downstate Correctional Facility

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes X No _____ Do Not Know _____

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes X No _____ Do Not Know _____

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes X No _____

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes _____ No _____

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Downstate Correctional Facility

1. Which claim(s) in this complaint did you grieve?

All

2. What was the result, if any?

Denied

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

The grievance was appealed. Never received a response.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any:

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I grieved the issue to the superintendent and Deputy of
Security to try to resolve this diplomatically, and they simply
returned that grievance saying "No".

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

One hundred million dollars

personal injuries, pain and suffering, punitive damages

VI. Previous lawsuits:

On
these
claims

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ____ No X

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____
 Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

____ 3. Docket or Index number _____

____ 4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ____ No X

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____
 Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

____ 3. Docket or Index number _____

____ 4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____
If NO, give the approximate date of disposition _____
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 29 day of July, 2011.

Signature of Plaintiff

Martin Johnson

Inmate Number

10A0687

Institution Address

889 St. Nicholas Avenue, 605
New York, NY 10032

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 29 day of July, 2011, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Martin Johnson